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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,676	05/31/2000	John J. Curro	7897R	2677

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EXAMINER

PIERCE, JEREMY R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 01/29/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/584,676

Applicant(s)

CURRO ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to laminate web, classified in class 428, subclass 198.
 - II. Claims 10-20, drawn to a method for forming a laminate web, classified in class 156, subclass various.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, displacing the protuberances in the third web material while simultaneously point bonding the first and second web material can make the laminate web.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Angie Stone on January 7, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 10-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 cites, "...said third material is involved in said discrete bond sites and substantially fills said interior region." In what way is the third material involved with the discrete bond sites? Is the third material part of the bond, or is it just adjacent to the regions of the bond site, as cited two lines above? The language is indefinite, and the invention needs to be distinctly claimed. Claims 2-9 are included in the rejection because of their dependence upon claim 1.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Srinivasan et al. (U.S. Patent No. 5,851,935).

Srinivasan et al. teach a composite web comprising nonwoven webs of carded thermoplastic staple fibers thermally bonded to opposing sides of an elastomeric film (column 2, lines 33-35). The three webs are laminated together by thermal spot bonding using a pair of opposed heated calendar rolls (column 4, lines 58-60). The heat and pressure at the bonding spot causes the thermoplastic material of the fibers and the elastomeric material of the film to melt, forming an aperture in the film, but not in the thermoplastic material (column 4, lines 64-67). The thermoplastic fibers fuse to each other across the aperture formed in the film by the melted elastomer, leaving a web of densified and fused fibers extending across the film aperture (column 3, lines 32-36). With regard to claim 2, no adhesive is used.

9. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Seward (U.S. Patent No. 4,062,993).

Seward discloses a composite structure comprising a base fabric, metal foil, and a fiber batt bonded together by means of needle punching (column 1, lines 66-68). The needles penetrate the batt, then the foil, and finally the fabric base to form fiber masses on the free side of the fabric base and to force fibers from the batt back and forth through spaced apart needle punched apertures in the foil (claim 5). This mechanically interlocks the three layers together. With regard to claim 4, the fabric base may be nonwoven (column 2, line 65).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. in view of Griesbach et al. (U.S. Patent No. 5,587,225).

Srinivasan et al. do not teach the middle layer to be material comprising cellulosic tissue paper. Griesbach et al. teach a composite containing two filamentous web layers containing crimped continuous filaments and a cellulosic layer containing cellulosic fibers disposed between (column 1, lines 40-50). The cellulosic layer is a tissue layer (column 10, lines 41-42). Both Srinivasan et al. (column 1, lines 16-17) and Griesbach et al. (column 2, lines 50-58) teach composites useful in the manufacture of disposable diapers, sanitary napkins, etc. Griesbach et al. teach that using cellulosic

fibers in the middle layer of such a composite produces a product with soft cloth-like textural and visual properties (column 1, lines 64-67). It would have been obvious to one skilled in the art to use cellulosic tissue paper as the middle layer in the composite disclosed by Srinivasan et al. in order to improve the texture and touch of the personal care product.

12. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. in view of Phan et al. (U.S. Patent No. 5,338,766).

Srinivasan et al. do not teach the middle layer to be material comprising open cell foam. Phan et al. teach superabsorbent polymer foam that is open cell (claim 1). Phan et al. also teach that the absorptive characteristics of these foams make them useful for incorporation into absorbent articles such as diapers, sanitary napkins, etc. (column 1, lines 20-29). It would have been obvious to one skilled in the art to incorporate open cell foam into the composite provided by Srinivasan et al. in order to increase the absorptive properties of the personal care product.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 4,414,970 to Berry, U.S. Patent No. 4,573,991 to Pieniak et al., U.S. Patent No. 4,600,620 to Lloyd et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703)

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605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

January 16, 2002



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700